In the Supreme Court of the United States

OCTOBER TERM, 1960

No. 141

JOHN JOSEPH KILLIAN

v.

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

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MEMORANDUM FOR THE UNITED STATES IN ANSWER TO PETITIONER'S SECOND SUPPLEMENTAL BRIEF

Petitioner's Second Supplemental Brief, citing *Campbell* v. *United States,* No. 53, this Term, is based upon the same assumption as the petition: that, because Communism is involved in the case, the petitioner (defendant) was entitled under 18 U.S.C. 3500 to *all* reports the witnesses made to the Government relating to "policies, activities and program of the Communist Party" (Pet. 18-22, Brief in Opposition, p. 12). In other words, petitioner continues to assume that he was entitled to production of all reports to the F.B.I. made by the witnesses in regard to any Communist activity, whether or not the defendant or any of his activities were mentioned. This appears from the petitioner's citations (Second Supp. Br., p. 3) of transcript pages to support his statement that "the trial

court even forbade inquiry by the defense into the very existence of statements other than the ones produced." The fact is that petitioner's requests went far beyond the "subject matter" of the direct testimony.

Petitioner does not question the statement of the Court of Appeals, "* * * defendant made no demand that the court interrogate the witnesses *in camera,* or make other investigation as to whether all producible statements had been produced" (269 F. 2d at p. 569); and the record shows that he made no attempt to follow the procedure approved in *Palermo* v. *United States,* 360 U.S. 343, and in *Campbell.*

For the reasons stated above and in the brief in opposition, it is respectfully submitted that the petition for a writ of certiorari should be denied.

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